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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,287	09/08/2004	Keith Edward Short	KOZI.01US01	5286
43344 7590 11/15/2007 KRAJEC PATENT OFFICES, LLC 820 WELCH AVENUE BERTHOUD, CO 80513			EXAMINER FRANCIS, MARK P	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 11/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,287	SHORT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark P. Francis	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 2193

### **DETAILED ACTION**

1. This action is responsive to the application filed on September 08, 2004.
2. Claims 1-22 have been examined.

### ***Oath/Declaration***

3. The Office acknowledges receipt of a properly signed oath/declaration filed September 08, 2004.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
5. A person shall be entitled to a patent unless –  
  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
6. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by DeRolf.  
  
(U.S. Pat 6,904,544)

### **Independent claims**

With respect to claims 1, 11, and 21, DeRolf discloses a system comprising: a device with an embedded processor, (Col 14:54-65, "...a processor...a diagnostic software

Art Unit: 2193

embedded...) said device having a specific function; (Col 3:34-40, "...a storage diagnostic tool that may be installed on host systems and to test...")

a first software system operable to run on said embedded processor(Col 3:34-40, "...a storage diagnostic tool that may be installed on host systems...") and enable said device to perform said specific function; (Col 3:45-55, "...Each test module includes code implementing a particular test operation...")

and a second software system operable to run on said embedded processor,(e.g. See Fig. 1, element 4) said second software system comprising: a command interface adapted to receiving commands(Col 3:60-67, "...such as command line or graphical user interface...") and outputting results;

an engine adapted to running a test sequence; (Col 4:5-15, "...implement the expert diagnostic system...comprised of one or more of the test modules...")

an output driver adapted to timestamping an outgoing message and storing said outgoing message; (Col 11:45-55, "...a start record with a timestamp...")

an input driver adapted to timestamping an incoming message and storing said incoming message; (Col 11:45-55, "...a start record with a timestamp...")

Art Unit: 2193

and an analysis routine adapted to analyzing said outgoing message and said incoming message. (Col 11:45-60, "...These error log files contain important information that should accompany the failed components back to the repair station...")

7. Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by Oberlaender. (U.S. PG PUB 2005/0102572)

With respect to claim 22, Oberlaender discloses a method of developing a circuit(Col 3:0023-0024, "...a circuit designer...") having an embedded processor(Col 1:0004, "...the embedded processor...") comprising: designing a circuit having said embedded processor, said circuit having a predefined function;(Col 3:0024, "...the design circuit model...")

assembling said circuit; (Col 3:0023, "...The circuit designer typically defines an SOC circuit...")

designing software operable on said embedded processor, said software adapted to enable said circuit to perform said predefined function; (Col 3:0023, "...Equivalency checking...")

loading said embedded processor with a test platform software(Col 3:0025, "...simulation model includes a processor core...") comprising: a command interface adapted to receiving commands and outputting results; (Col 4:0027, "...to interface circuit...")

Art Unit: 2193

an engine adapted to running a test sequence;(Col 2:0012, "...each write operation of the test program...")

an output driver adapted to timestamping an outgoing message and storing said outgoing message; (Col 4:0027, "...having timestamp values...")

an input driver adapted to timestamping an incoming message and storing said incoming message; (Col 6:0047-0048, "...having timestamp values...")

an analysis routine adapted to analyzing said outgoing message and said incoming message and create results; (Col 8:0061-0062, "...that does not match the instantaneous data values...")

and a display routine for displaying said results; (Col 8:0063, "...Data is typically written to fifo devices...")

creating said test sequence;(Col 8:0062, "...sanity check tool...")

transmitting said test sequence to said embedded processor loaded with said test platform software; (Col 6:0048, "...parallel shows the transaction stream...")

operating said test sequence on said embedded processor; (Col 7:0050, "...automatic tests of the memory content...")

and analyzing said results.(Col 8:0060, "...the sanity check process begins...")

### **Dependent claims**

With respect to claims 2 and 12, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses that the command interface is operable to

Art Unit: 2193

communicate via a terminal interface. (Col 3:59-67, "...entered through a host system interface...")

With respect to claims 3 and 13, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses further comprising: a host program operable on a host system, said host program having a graphical user interface. (Col 3:59-67, "...or graphical user interface...")

With respect to claims 4 and 14, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses that the test sequence comprises a single test routine. (Col 3:45-60, "...Each test module...")

With respect to claims 5 and 15, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses that the test sequence comprises a test routine that is repeated for a predetermined period of time. (Col 7:48-55, "...to run a series of isolation tests on the disk...")

With respect to claims 6 and 16, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses that the test sequence comprises multiple threads of commands. (Col 3:59-67, "...user input commands...")

With respect to claims 7 and 17, the rejection of claims 1 and 11 are incorporated

Art Unit: 2193

respectively and further, DeRolf discloses that the input driver is further adapted to validate said incoming message. (Col 13:15-20, "...a device interface...")

With respect to claims 8 and 18, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses that the analysis comprises determining one of a group comprising message transfer time, average message transfer time, and average data throughput per unit time. (Col 4:13-20, "...Stress Test...")

With respect to claims 9 and 19, the rejection of claims 1 and 11 are incorporated respectively and further, DeRolf discloses further comprising an initiator adapted to determine if an I/O device is present. (Col 13:15-20, "...a device interface...")

With respect to claims 10 and 20, the rejection of claims 9 and 19 are incorporated respectively and further, DeRolf discloses that the initiator is further adapted to perform a diagnostic routine with said I/O device. (Col 11:13-20, "...the diagnostic routine...")

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Francis whose telephone number is (571)272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.



Art Unit: 2193

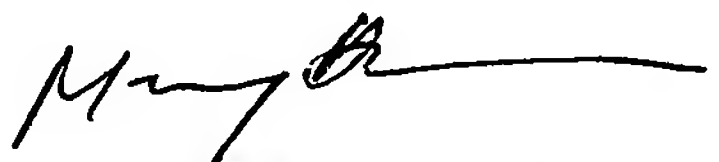
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571)272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark P. Francis

Patent Examiner

Art Unit 2193

  
**MENG-AL T. AN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2193**

Application/Control Number: 10/711,287

Art Unit: 2193

Page 9